

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. 05-CR-135-F-02

UNITED STATES OF AMERICA,

Plaintiff,

v.

2. ANTHONY PRINCE,

Defendant.

**PLEA AGREEMENT AND STATEMENT OF FACTS
RELEVANT TO SENTENCING**

The United States of America (the government), by and through David M. Conner, Assistant United States Attorney for the District of Colorado, and the defendant, Anthony Prince, personally and by counsel, Warren R. Williamson, Assistant Federal Public Defender, submit the following Plea Agreement and Statement of Facts Relevant to Sentencing pursuant to D.C.COLO.LCrR 11.1.

I. PLEA AGREEMENT

The defendant agrees to plead guilty to the sole count of the Indictment in the above-captioned matter charging a violation of 18 U.S.C. §§ 2113(a) and (d).

In exchange, the government agrees to recommend the defendant receive, at time of sentencing, receive a full 3 level reduction for acceptance of responsibility pursuant to §3E1.1 of the United States Sentencing Guidelines provided the government comes into possession of no additional materials indicating the defendant's

lack of acceptance of responsibility and that the defendant does nothing from the time of plea through and including the time of sentencing inconsistent with accepting responsibility.

The defendant, pursuant to 18 U.S.C. § 3553(a), may ask the Court to impose a sentence lower than that called for under the advisory Sentencing Guidelines. The government reserves the right to oppose any such request.

There is no other agreement with respect to sentencing.

II. STATUTORY PENALTIES

The maximum statutory penalty for a violation of 18 U.S.C. §§ 2113(a) and (d) is: not more than 25 years imprisonment; not more than \$250,000.00 fine, or both; not more than 5 years supervised release; \$100.00 special assessment fee; plus restitution to be determined by the Court.

The conviction may cause the loss of civil rights, including but not limited to the rights to possess firearms, vote, hold elected office, and sit on a jury. Since the defendant is an alien, this conviction may cause the defendant to be deported or confined indefinitely if there is no country to which the defendant may be deported.

A violation of the conditions of probation or supervised release may result in a separate prison sentence.

III. STIPULATION OF FACTUAL BASIS AND FACTS RELEVANT TO SENTENCING

The parties agree that there is no dispute as to the material elements which establish a factual basis of the offense of conviction.

Pertinent facts are set out below in order to provide a factual basis of the plea and to provide facts which the parties stipulate, agree and consent are relevant, pursuant to §1B1.3, for computing the appropriate guideline range. To the extent the parties disagree about the facts relevant to sentencing, the statement of facts identifies which facts are known to be in dispute at the time of the plea. (§6B1.4(b)) The parties agree, consent, and stipulate that disputed facts will be resolved by the Court at sentencing.

The statement of facts herein does not preclude either party from presenting and arguing, for sentencing purposes, additional facts or factors not included herein which are relevant to the guideline computation (§1B1.3) or to sentencing in general (§1B1.4). In "determining the factual basis for the sentence, the Court will consider the stipulation [of the parties], together with the results of the presentence investigation, and any other relevant information." (§6B1.4 Comm. and 18 U.S.C. § 3661.)

The parties agree that the evidence would show that the date on which conduct relevant to the offense (§1B1.3) began is on or about March 20, 2005.

The parties agree that the government's evidence would be:

Defendant Luke Carroll ("Carroll") and defendant Anthony Prince ("Prince") were seasonal workers in Vail, Colorado during the 2004-2005 winter sport season. Both men are residents of Australia and not citizens of the United States.

Shortly before March 21, 2005, as their employment was winding down, Prince and Carroll decided they would rob Weststar Bank located at 302 Hanson Ranch Road in Vail, Colorado.

Defendant Prince had been in this branch of Weststar bank many times. He was an account holder there, and was, as a result of his many visits, very familiar with the bank's layout and with its hours of operation. He had been at the branch most recently on March 18, 2005. The defendants were familiar with the bank and the individuals working in the bank. The defendants planned the bank robbery and to that end secured items to wear which would make them hard to recognize as well as to two BB guns which would simulate handguns.

On March 21, 2005 bank teller and employee Jessica Cole was inside Weststar Bank, 302 Hanson Ranch Road, Vail, Colorado. At approximately 10:11 a.m. she was joined by fellow bank teller and employee Kim Vasquez. Within seconds of Ms. Vasquez entering the bank defendants Carroll and Prince entered the bank through the front door. Both defendants brandished the above-mentioned BB guns and informed the women that this was a bank robbery. Ms. Vasquez was ordered to an area in front of the teller station near the front door where, according to her recollection, she was pushed to the ground by one of the robbers. While being pushed to the ground, according to Ms. Vasquez, she injured her arm. Also according to Ms. Vasquez, this arm injury has impeded her ability to snowshoe recreationally and to operate a motor vehicle for long periods of time. Ms. Vasquez has reportedly sought medical attention regarding this injury and is presently under the treatment of a chiropractor for this injury.

Defendant Prince stood next to Ms. Vasquez who was lying prone on the floor. Defendant Carroll ordered Ms. Cole to obtain the keys and enter the safe of the bank. Ms. Cole retrieved keys and took them to the room where the safe was located.

Defendant Prince meanwhile, after remaining in the lobby area for approximately one minute, left the bank to guard the front door and prevent anyone from entering.

Ms. Cole believes that the shorter robber touched the back of her neck with the barrel of what appeared to be a handgun, which subsequently turned out to be the BB gun, while she was in the room with the safe. Ms. Cole was eventually able to gain access to the safe and place one hundred thirty two thousand dollars of money which was in the care, custody, control, management and possession of Weststar Bank into a pillowcase which had been handed to her by one of the robbers.

Ms. Cole was subsequently, at what appeared to be gunpoint, ordered to the floor next to Ms. Vasquez. Carroll then fled the bank, and he and Prince left the area.

Evidence recovered from inside the bank was a plastic tie strip as well as bank surveillance video showing a portion of the above-described robbery.

On March 21, 2005 the monies and deposits of Weststar Bank were insured by the Federal Deposit Insurance Corporation, an agency of the United States government.

Immediately following the bank robbery law enforcement personnel were contacted. Vail police officers arrived and a short distance from the bank recovered approximately one thousand dollars of the bank's money in two bricks with straps marked Federal Reserve Bank, two Daisy Model 15XT BB pistols, one Motorola walkie/talkie and one gray ski jacket which matched the description of the clothing one of the robbers used during the course of the bank robbery.

On March 21 and 22, 2005, defendant Prince and defendant Carroll made efforts to mail a certain portion of the proceeds from this bank robbery back to Australia. Likewise, they spent some of the proceeds of the bank robbery by acquiring jewelry.

On March 22, 2005 defendant Prince and defendant Carroll were at Denver International Airport awaiting an outgoing flight.

Based upon the fact they had previously been identified as having participated in this robbery they were contacted by officers of the Denver Police Department. Each robber was found to have some of the bank robbery proceeds in his possession.

Defendant Carroll and defendant Prince were separately interviewed by law enforcement. Each defendant was advised of his constitutional rights pursuant to Miranda v. Arizona prior to questioning and each voluntarily waived his right to remain silent and agreed to talk to law enforcement. Prince and Carroll each then confessed to participating in the bank robbery as outlined above. At no time during these interviews did either defendant admit physically touching either victim with one of the BB guns or physically harming either of the tellers. Additional monies taken in this bank robbery were recovered from a trash bin at Denver International Airport.

Moreover, Prince and Carroll further indicated they gave several thousand dollars of money from this bank robbery to a taxi cab driver in the Denver, Colorado metro area.

During an interview of that taxi cab driver, the taxi cab driver subsequently denied receiving any money or things of value from either Prince or Carroll.

IV. SENTENCING COMPUTATION

The parties understand that based on the decision of the Supreme Court in United States v. Booker, 125 S.Ct. 738 (2005), sentencing in this case will be determined under the provisions of 18 U.S.C. § 3553(a) and in consultation with the sentencing guidelines, issued pursuant to 28 U.S.C. § 994(a).

Any estimation by the parties regarding the estimated appropriate guideline application does not preclude either party from asking the Court to depart from the otherwise appropriate guideline range at sentencing, if that party believes that there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the sentencing guidelines. (§5K2.0)]

The parties understand that the Court may impose any sentence, up to the statutory maximum, regardless of any guideline range computed, and that the Court is not bound by any position of the parties. (§6B1.4(d)) The Court is free, pursuant to §§6A1.3 and 6B1.4, to reach its own findings of facts and sentencing factors considering the parties' stipulations, the presentence investigation, and any other relevant information. (§6B1.4 Comm.; §1B1.4)

To the extent the parties disagree about the sentencing factors, the computations below identify the factors which are in dispute. (§6B1.4(b))

A. The base guideline is §2B3.1(a), with a base offense level of 20.

B. The following specific offense characteristics apply or are asserted apply.

The parties agree that an increase of 2 levels pursuant to §2B3.1(b)(1) applies because a property of a financial institution was taken. The parties likewise agree that an

increase of 3 levels applies pursuant to §2B3.1(b)(2)(E) because a dangerous weapon was brandished or possessed. The government believes that the dangerous weapon was otherwise used and thus an increase of 4 levels pursuant to §2B3.1(b)(2)(D) is applicable.

The government believes that an increase of 2 levels pursuant to §2B3.1(b)(3)(A) applies because Ms. Vasquez sustained bodily injury. The defense has yet to receive documentation regarding this injury and thus, at this juncture, contests this adjustment. The government contends that a 2 level upward adjustment is applicable pursuant to §2B3.1(b)(4)(B) because persons were physically restrained. The defense, at this juncture, contests this adjustment.

The parties agree that an increase of 2 levels applies pursuant to §2B3.1(b)(7)(C) because the loss exceeded \$50,000.00.

C. There are no victim-related, role-in-offense, obstruction and/or multiple count adjustments.

D. The adjusted offense level would therefore be 32 according to the government or 27 according to the defendant.

E. The defendant should receive a full 3 point reduction for acceptance of responsibility. The resulting offense level would therefore be 29 according to the government or 24 according to the defendant.

F. The parties understand that the defendant's criminal history computation is tentative. The criminal history category is determined by the Court. Known facts regarding the criminal history are as follows: The defendant has no known criminal history which would adversely impact upon the sentencing guidelines. Based on that

information, if no other information were discovered, the defendant's criminal history category would be I. The parties agree, stipulate and consent to judicial fact finding with respect to the defendant's criminal history for sentencing and criminal history category determination purposes. The parties agree, stipulate and consent that the Court may consider the presentence report (which has yet to be prepared) and other information which may be supplied to the Court and the Probation Department in reaching the Court's conclusion as to the defendant's criminal history category.

G. Assuming the (tentative) criminal history facts of (F) above, the career offender/criminal livelihood/armed career criminal adjustments would not apply.

H. The guideline range resulting from the estimated offense level(s) of (E) above, and the (tentative) criminal history category of (F) above, is 87-108 months. However, in order to be as accurate as possible, with the criminal history category undetermined at this time, the estimated offense level(s) of (E) above could conceivably result in a range from 87 months (bottom of Category I), to 188 months (top of Category VI) according to the government, the range according to the defendant would be 51-63 months with a low of 51 and a high of 125 months. The sentence would be limited, in any case, by the statutory maximum, which the parties agree is the maximum possible imprisonment for sentencing purposes.

I. Pursuant to guideline §5E1.2, assuming the estimated offense level of (E) above, the fine range for this offense would be \$15,000.00 to \$150,000.00, according to the government or \$10,000.00 to \$100,000.00 according to the defendant, plus applicable interest and penalties.

J. Pursuant to guideline §5D1.2, if the Court imposes the term of supervised release, that term shall be not more than 5 years.

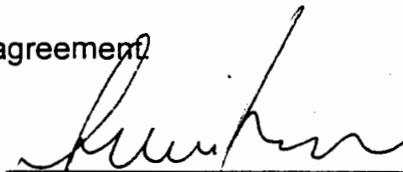
K. Restitution will be required in at least an amount reflecting the amount of unrecovered monies which cannot or have not been returned to the victim bank.

V. WHY THE PROPOSED PLEA DISPOSITION IS APPROPRIATE

The parties believe the sentencing ranges resulting from the proposed plea agreement is appropriate because all relevant conduct is disclosed, the sentencing guidelines take into account all pertinent sentencing factors with respect to this defendant, and the charges to which the defendant has agreed to plead guilty adequately reflect the seriousness of the actual offense behavior.

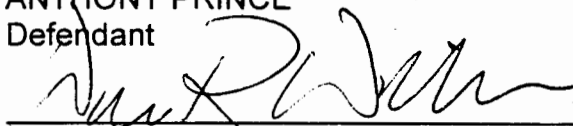
This document states the parties' entire agreement. There are no other promises, agreements (or "side agreements"), terms, conditions, understandings or assurances, express or implied. In entering this agreement, neither the government nor the defendant have relied, or are relying, on any terms, promises, conditions or assurances not expressly stated in this agreement.

Date: 6-7-05



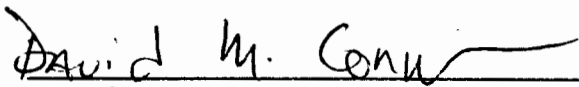
ANTHONY PRINCE
Defendant

Date: 6-7-05



WARREN R. WILLIAMSON
Attorney for Defendant

Date: 6/15/05



DAVID M. CONNER
Assistant U.S. Attorney